



**United States Patent Application**  
**COMBINED DECLARATION AND POWER OF ATTORNEY**

As a below named inventor I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: Sensing Food Intake,

the specification of which:

- a. ☐ is attached hereto.  
b. ☒ was filed on October 31, 2003 as United States Application No. 10/698,124 or PCT International Application No. \_\_\_\_\_ and was amended on \_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.<sup>1</sup>

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT application having a filing date before that of the application on which priority is claimed:

- a. ☐ no such applications have been filed.  
b. ☐ such applications have been filed as follows:

| COUNTRY | PRIOR FOREIGN APPLICATION NUMBER | FOREIGN FILING DATE (MM/DD/YYYY) | PRIORITY CLAIMED   | CERTIFIED COPY ATTACHED                                  |
|---------|----------------------------------|----------------------------------|--|--|
|         |                                  |                                  | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|         |                                  |                                  | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |

<sup>1</sup> § 1.56 Duty of disclosure; fraud, striking or rejection of applications.

(a) A duty of candor and good faith toward the Patent and Trademark Office rests on the inventor, on each attorney or agent who prepares or prosecutes the application and on every other individual who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application. All such individuals have a duty to disclose to the Office information they are aware of which is material to the examination of the application. Such information is material where there is substantial likelihood that a reasonable examiner would consider it important in deciding whether to allow the application to issue as a patent. The duty is commensurate with the degree of involvement in the preparation or prosecution of the application.

I hereby claim the benefit under 35 U.S.C. 120, or 365(c), of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. 156(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

- a. ☐ no such applications have been filed.  
 b. ☐ such applications have been filed as follows:

| U.S. APPLICATION NUMBER | DATE OF FILING | STATUS (patented, pending, abandoned) |
|-------------------------|----------------|---------------------------------------|
|                         |                |                                       |
|                         |                |                                       |

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below:

| U.S. PROVISIONAL APPLICATION NUMBER | DATE OF FILING (Day, Month, Year) |
|-------------------------------------|-----------------------------------|
|                                     |                                   |
|                                     |                                   |

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

|                   |                 |                     |                 |
|-------------------|-----------------|---------------------|-----------------|
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| Stephen W. Bauer  | Reg. No. 32,192 | Daniel W. Latham    | Reg. No. 30,401 |
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**CUSTOMER NO. 27581**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements

and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

|  |                         |  |                                |  |
|--|-------------------------|--|--------------------------------|--|
| 201  | Full Name of Inventor   | FIRST NAME<br>Kenneth                    | MIDDLE INITIAL<br>T.           | LAST NAME<br>Heruth                                |
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| SIGNATURE OF INVENTOR 203:                             |                         |  |                                | DATE:  |

☐ Additional pages of this declaration follow.